

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7290**

**BILL NUMBER:** HB 1666

**NOTE PREPARED:** May 4, 2005

**BILL AMENDED:** Apr 29, 2005

**SUBJECT:** Alcoholic Beverage Matters.

**FIRST AUTHOR:** Rep. Stutzman

**FIRST SPONSOR:** Sen. Jackman

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *ATC Prosecutor Election:* This bill eliminates a requirement that the prosecutor for the Alcohol and Tobacco Commission reside in Indiana for five years before being appointed prosecutor.

*Alcohol Permit and Tobacco Certificate Changes:* This bill also increases the term of a retailer or dealer's permit to two years (instead of one year), but requires a permit fee to be paid annually. It increases the following permit fees:

- (1) One-way retailer's or dealer's permit from \$250 to \$500 annually.
- (2) Two-way retailer's or dealer's permit from \$500 to \$750 annually.
- (3) Three-way retailer's or dealers permit from \$750 to \$1,000 annually.

The bill requires 34% of the permit fees for certain permits to be deposited in the Enforcement and Administration Fund and 66% of the permit fees in the state General Fund (currently 100% of the permit fees for these permits are deposited in the General Fund). The bill also changes the distribution of the Excise Fund to provide that 30% of the Excise Fund is deposited in the Enforcement and Administration Fund, 37% is distributed to the state General Fund, and 33% is distributed to municipal governments.

This bill eliminates supplemental retailer permits and allows one-way, two-way, and three-way retail permit holders to sell alcoholic beverages on Sunday. The bill also increases the fee for a temporary bartender's permit from \$4 to \$5. This bill increases the fee for a tobacco certificate from \$50 to \$200 and the term of a certificate from one to three years. It increases the fee for an employee's permit used to perform volunteer service from \$5 to \$15. The bill also allows the Commission to suspend a permit if the permit holder has not paid the seller of the permit in accordance with the terms of the sale and the seller has obtained a judgment.

*Additional Permits Authorized:* The bill allows the Commission to auction not more than five three-way permits to restaurants in Jeffersonville and five three-way permits to restaurants in Clarksville that are located in an economic development area. This bill requires a minimum bid of \$35,000 and a renewal fee of \$1,350, that are deposited in the Enforcement and Administration Fund.

*Notice by Publication Requirements:* This bill changes the publication requirement to require that the Commission publish notice of a new retailer or dealer's permit and notice of investigation one time in a newspaper of general circulation published in the county where the permit is located.

*Samples from Retailers/Dealers:* The bill allows a beer retailer to permit customers to sample beer and flavored malt beverages. It also allows a liquor retailer or dealer to allow customers to sample flavored malt beverages.

*Primary Source of Supply:* The bill also provides that if a primary source of supply acquires the rights to a product and decides not to have a beer wholesaler continue to distribute the product, the wholesaler must be compensated for the loss of the right to distribute the product or the wholesaler will continue to distribute the product.

*Wholesaler Discounts:* This bill allows a beer wholesaler to offer a special discount price to a beer dealer or beer retailer if the beer or flavored malt beverage is a brand or package the beer wholesaler has discontinued or the beer or flavored malt beverage will expire within a certain date.

*Manufacturer Incentives:* The bill allows a manufacturer of alcoholic beverages to offer on a nondiscriminatory basis bona fide incentives to the wholesaler if the incentives are determined based on sales to retailers or dealers occurring during specified times and for specified products.

*Permittees & Innkeeper's Tax:* The bill also prohibits the Commission from issuing, renewing, or transferring a permit if an applicant has not paid Innkeeper's Taxes that are currently due.

**Effective Date:** Upon passage; July 1, 2005.

**Explanation of State Expenditures:** *Summary of Expenditures:* This bill will have an administrative cost impact on the ATC. The Indiana State Excise Police (ISEP) is the law enforcement division of the ATC. The provisions of this bill could cause an increase in enforcement costs to ISEP. It is presumed that the increase could be covered through the use of existing staff and resources. In addition, the bill would generate revenue through an increase in permit fees, which will help to offset the ATC and ISEP increased administrative costs.

An increase in enforcement costs to the ISEP would be as a result of the following provisions of the bill:

- Samples from Retailers/Dealers;
- Primary Source of Supply;
- Wholesaler Discounts;
- Manufacturer Incentives; and
- Alcohol Vaporizing Device.

These sections represent new rights or restrictions for the alcoholic beverage industry. The creation of these new rights and restrictions could increase the burden on the ISEP by requiring them to monitor procedures of the industry that they currently do not monitor. It should be noted that the fee increases contained in this bill

should provide the ATC with the funds needed to cover any additional regulatory costs incurred under these provisions.

*Alcohol Permit and Tobacco Certificate Changes:* The changes to permits provided in the bill will result in an indeterminable increase in administrative costs to the ATC. It is estimated that the increase in fee revenue will offset the increased costs.

*Notice by Publication Requirements:* This bill eliminates certain notice requirements relating to the issuance of alcoholic beverage permits by the ATC. The elimination of these requirements will result in a savings to the ATC.

**Explanation of State Revenues:** *Summary of Revenues:* This bill increases several of the alcoholic beverage permit fees, as well as increasing the fee for a tobacco certificate. Assuming the number of permits issued remains constant, the additional revenue that will be generated annually is approximately \$558,000.

*Alcohol Permit and Tobacco Certificate Changes:* This bill increases several alcohol permit fees, increases the tobacco certificate fee, and repeals the employee permit fee. The table below illustrates the changes to fees as well as the changes to the permit renewal terms.

<i>Permit</i>	<i>Current Fee</i>	<i>New Fee*</i>	<i>Current Term (yrs.)</i>	<i>New Term (yrs.)</i>
<b><i>Dealer/Retailer Permits</i></b>				
<b><i>1-way</i></b>	\$250	\$500	1	2
<b><i>2-way</i></b>	\$500	\$750	1	2
<b><i>3-way</i></b>	\$750	\$1,000	1	2
<b><i>Supplemental Retailer</i></b>	ELIMINATED			
<b><i>Temp. Bartender Permit</i></b>	\$4	\$5	NA	NA
<b><i>Volunteer Permit</i></b>	\$5	\$15	2	2
<b><i>Tobacco Certificate</i></b>	\$50	\$200	1	3

\*Note that the new dealer/retailer fees are required to be paid annually under the bill.

*Permit Fee Distributions:* This bill changes the way that permit fees and tobacco certificate fees are distributed. The overall yearly impact on the various funds is as follows:

- the state General Fund will receive approximately \$346,000 additional revenue.
- cities and towns overall will receive approximately \$2.5 M less revenue.
- the Enforcement Fund will receive approximately an additional \$2.7 M.
- the state Excise Police Retirement Fund will receive approximately an additional \$76,000 in revenue.

These estimates assume that the number of current permit holders will stay constant. The decrease in the revenue going to cities and towns is purely a result of the bill's change in the distribution of retailer and dealer permit fees. The tables below show the changes in distribution and the shifts in revenue in more detail.

Retailer/Dealer Permits				
Current Distribution	Current Fees	Change	New Fees	New Distribution
General Fund 1/3	\$2,612,000	\$409,513	\$3,021,513	37% General Fund
Cities and Towns 2/3	\$5,224,000	(\$2,529,138)	\$2,694,863	33% Cities and Towns
Enforcement Fund NONE	\$0	\$2,449,875	\$2,449,875	30% Enforcement Fund
Tobacco Certificates				
Enforcement Fund	\$412,500	\$136,125	\$548,625	Enforcement Fund
Volunteer Permits				
Excise Retirement	\$38,070	\$76,140	\$114,210	Excise Retirement
Temporary Bartender				
Enforcement Fund	\$60,244	\$15,061	\$75,305	Enforcement Fund
Revenue from all permits under 7.1-4-7-1				
General Fund 100%	\$187,000	(\$63,580)	\$123,420	66% General Fund
Enforcement Fund NONE	\$0	\$63,580	\$63,580	34% Enforcement Fund

Totals by Fund				
	Current Fees	Change	New Fees	
TOTAL REVENUE	\$8,533,814	\$557,576	\$9,091,390	TOTAL REVENUE
General Fund	\$2,799,000	\$345,933	\$3,144,933	General Fund
Cities and Towns	\$5,224,000	(\$2,529,138)	\$2,694,863	Cities and Towns
Enforcement Fund	\$472,744	\$2,664,641	\$3,137,385	Enforcement Fund
Excise Retirement	\$38,070	\$76,140	\$114,210	Excise Retirement

*Additional Permits Authorized:* The bill also allows the ATC to auction not more than five three- way permits to restaurants in Jeffersonville and Clarksville that are located in an economic development district. The bill requires a minimum bid of \$35,000 and a renewal fee of \$1,350, that are deposited in the Enforcement and Administration Fund (EA Fund). If all five permits are sold for the minimum bid in each municipality, the increase in revenue to the EA Fund will be approximately \$175,000 from the auction, and approximately \$8,500 per year in renewal fees.

**Explanation of Local Expenditures:** *Additional Permits Authorized:* This bill also provides that the legislative body of the city or town must adopt an ordinance requesting the ATC to issue the permit. This provision could have an administrative cost impact on the local legislative body, but it is presumed that the impact could be covered through the use of existing staff and resources.

**Explanation of Local Revenues:** *Additional Permits Authorized:* Two-thirds of the fee revenue is distributed to cities, towns, and counties based on population. The maximum increase in permit revenue to cities, towns, and counties would be \$10,000.

Portions of the alcohol excise taxes that are collected are distributed to the cities and towns on the basis of population.

**State Agencies Affected:** Alcohol and Tobacco Commission.

**Local Agencies Affected:** Legislative body of an eligible city or town.

**Information Sources:** David Heath, Commissioner, Alcohol and Tobacco Commission, 232-2444.

**Fiscal Analyst:** Adam Brown, 317-232-9854.